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| 10/702,422 | 11/05/2003 | Ernst Engler | A01498 | 8336 |
| 21898 7590 03/20/2009 ROHM AND HAAS COMPANY PATENT DEPARTMENT 100 INDEPENDENCE MALL WEST PHILADELPHIA, PA 19106-2399 | | | | |
| EXAMINER | | | | |
| ROGERS, JAMES WILLIAM | | | | |
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| 1618 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERNST ENGLER and GERHARD TIEDTKE

Application No. 10/702,422
Technology Center 1600

Mailed: March 20, 2009

Before CAROLYN L. JOHNSON, *Supervisory Paralegal Specialist..*
JOHNSON, *Supervisory Paralegal Specialist..*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 28, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section 1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (8th ed., Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed December 30, 2007 is deficient because the "Evidence Relied Upon" section fails to include the Mattox reference (U.S. Patent No. 4,906,274) which is cited in the Grounds of Rejection section on page 3 of claims 1 and 3-8 35 under 35 U.S.C. § 103(a), and on page 6 of claims 1, 3-8 and 10 under 35 U.S.C. 103(a). Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- (1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
(4) for such further action as may be appropriate.

Application No. 10/702,422

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

clj

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